

SB077_L.006

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.SB13-077 be amended as follows:

1 Amend printed bill, page 9, after line 21, insert:

2 "SECTION 4. In Colorado Revised Statutes, 15-14-429, **amend**
3 (4) and (5) as follows:

4 **15-14-429. Presentation and allowance of claims.** (4) If it
5 appears that the estate is likely to be exhausted before all existing claims
6 are paid: ~~the conservator shall distribute the estate in money or in kind in~~
7 ~~payment of claims in the following order:~~

8 (a) ~~Costs and expenses of administration~~ THE CONSERVATOR MAY,
9 WITHOUT A COURT ORDER, DISTRIBUTE THE ESTATE IN MONEY OR IN KIND
10 IN PAYMENT OF CLAIMS IN THE FOLLOWING ORDER:

11 (I) COSTS AND EXPENSES OF ADMINISTRATION;

12 (II) CLAIMS OF THE FEDERAL OR STATE GOVERNMENT HAVING
13 PRIORITY UNDER OTHER LAW;

14 (III) CLAIMS INCURRED BY THE CONSERVATOR FOR SUPPORT,
15 CARE, EDUCATION, HEALTH, AND WELFARE PROVIDED TO THE PROTECTED
16 PERSON OR INDIVIDUALS WHO ARE IN FACT DEPENDENT ON THE PROTECTED
17 PERSON;

18 (IV) CLAIMS ARISING BEFORE THE CONSERVATORSHIP; AND

19 (V) ALL OTHER CLAIMS.

20 (b) ~~Claims of the federal or state government having priority~~
21 ~~under other law~~ (I) AT ANY TIME DURING THE ADMINISTRATION, IF THE
22 PAYMENT OF CLAIMS AS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION
23 (4) WOULD SUBSTANTIALLY DEplete THE CONSERVATORSHIP ESTATE AND
24 LEAVE THE CONSERVATORSHIP ESTATE WITH INSUFFICIENT FUNDS TO PAY
25 FOR THE PROTECTED PERSON'S BASIC LIVING AND HEALTH CARE EXPENSES,
26 THE CONSERVATOR MAY FILE A MOTION WITH THE COURT SEEKING
27 PERMISSION TO WITHHOLD PAYMENT OF ALLOWED CLAIMS, BOTH THOSE
28 EXISTING AND INCURRED AFTER THE DATE OF THE MOTION, AND PAY ONLY
29 THE EXPENSES, CLAIMS, AND AMOUNTS REQUESTED BY THE CONSERVATOR
30 REGARDLESS OF THE PRIORITY OF THE CLAIM, AS SET FORTH IN SAID
31 PARAGRAPH (a).

32 (II) IF THE CONSERVATOR FILES A MOTION AS DESCRIBED IN
33 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE FACTORS TO BE
34 CONSIDERED BY THE COURT INCLUDE, BUT ARE NOT LIMITED TO:

35 (A) THE CURRENT AND FUTURE PROJECTED CARE COSTS OF THE
36 PROTECTED PERSON;

37 (B) THE CURRENT AND PROJECTED ASSETS OF THE PROTECTED
38 PERSON, INCLUDING THE ASSETS OF THE CONSERVATORSHIP ESTATE;

1 (C) THE LIFE EXPECTANCY OF THE PROTECTED PERSON;
2 (D) THE CURRENT AND PROJECTED INCOME OF THE PROTECTED
3 PERSON AND THE CONSERVATORSHIP ESTATE;
4 (E) THE PROTECTED PERSON'S ELIGIBILITY FOR BENEFITS TO COVER
5 LIVING AND HEALTH CARE EXPENSES; AND
6 (F) WHETHER THERE ARE INDIVIDUALS WHO ARE IN FACT
7 DEPENDENT ON THE PROTECTED PERSON.
8 (III) NOTICE OF A MOTION FILED UNDER THIS SECTION SHALL BE
9 PROVIDED TO ALL INTERESTED PERSONS AND TO ALL CREDITORS WHOSE
10 CLAIMS ARE AFFECTED.
11 (IV) IF ANY ORDER IS ENTERED RESTRICTING PAYMENTS ON ANY
12 CREDITOR'S CLAIMS, THE CONSERVATOR SHALL PROVIDE INFORMATION IN
13 THE ANNUAL REPORT REGARDING WHETHER THE ORDER RESTRICTING
14 PAYMENT OF THE CREDITOR'S CLAIMS SHOULD BE MODIFIED.
15 (c) ~~Claims incurred by the conservator for support, care,~~
16 ~~education, health, and welfare previously provided to the protected person~~
17 ~~or individuals who are in fact dependent on the protected person;~~
18 (d) ~~Claims arising before the conservatorship; and~~
19 (e) ~~All other claims.~~
20 (5) UNLESS THE COURT ORDERS OTHERWISE, allowed claims within
21 the same class shall be paid pro rata. Preference may not be given in the
22 payment of a claim over any other claim of the same class, and a claim
23 due and payable may not be preferred over a claim not due."
24 Renumber succeeding sections accordingly.

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